

REMARKS

5 This amendment is being filed in response to an Office Action mailed on 08/23/2004, in which the Examiner said that claims 1-17 were pending but rejected. In this amendment, claims 1, 2, 4, 5, 10, and 11 are canceled, claims 3, 6-9, 12, 15, and 16 are amended, with reasons for rejection given by the Examiner being traversed as explained below, and new claims 18 and 19 are added.

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In this amendment, in claims 3, 6, 12, and 16, the requirements for a crossbar are modified to be requirements for an upper crossbar, while, in claims 8 and 17, the requirements for a crossbar were modified to be requirements for a lower crossbar. This is done to avoid confusion between the separate upper and lower crossbars. Support for this change is found in the specification as originally filed on page 6, lines 10-13 and 18-20, with either the front or rear crossbar being considered to be lower crossbar.

Claims Rejected under 35 USC §103

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In the above-mentioned Office Action, the Examiner said that claims 1-7 and 9-16 were rejected under U.S. Pat. No. 4,117,825 to Robertson in view of U.S. Pat. No. 3,481,267 to Saiki.

25 In this amendment, claims 1, 2, 4, 5, 10, and 11 are canceled. Claim 3 is rewritten in independent form to include all of the limitations of claims 1 and 2. Claim 6 is rewritten to depend from claim 3, instead of from the canceled claim 5, and to additionally include all of the limitations of claims 4 and 5. Claim 12 is rewritten in independent form to include all of the limitations of claims 10 and 11.

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Additionally in this amendment, the specification and claims 3, 6, 12, and 15 are amended to include descriptions and requirements, respectively, that the grill attachment brackets 44 (the slotted members of the claims) each include a slotted portion having the grill attachment slots extending between flat sides from a narrow edge, and that the twisted portion 52 extends between the slotted portion and a lower portion of the grill attachment bracket, which has a flat side attached to the upper crossbar 54.

Support for this change is found in FIGS. 1, 2, and 4 of the drawings as originally filed. all of which clearly show the twisted portions 54 extending between slotted portions of the brackets 44 and attachment portions thereof, oriented as described in the change. This arrangement allows the bracket to be formed economically by cutting and twisting a strap of steel having wide sides extending between narrow edges.

Regarding reliance upon the drawings as originally filed to provide support for changes to the specification and claims, the Applicant cites *In re Wolfensperger*, 133 USPQ 537, 542 (C.C.P.A. 1962):

The practical, legitimate inquiry in each case of this kind is what the drawing in fact discloses to one skilled in the art. Whatever it does disclose may be added to the specification in words without violation of the statute and rule which prohibit "new matter," 35 U.S.C. 132, Rule 118, for the simple reason that what is originally disclosed cannot be "new matter" within the meaning of this law. If the drawing, then, contains the necessary disclosure, it can "form the basis of a valid claim."

Regarding the prior art cited by the Examiner, the Applicant respectfully submits that *Robertson* describes a cooking stand that does not include slotted brackets fastened to a crossbar. Instead, slots are formed among a plurality of crossbars. *Saiki* describes a combined grill and skewer fixture including slotted members

that do not each include a slotted portion extending from a narrow edge between wide sides, a lower portion having a flat side attached to a crossbar, and a twisted portion extending between the slotted portion and the lower portion. Thus, the slotted member of *Saiki* cannot be formed by cutting and twisting a steel strap in having wide sides extending between narrow edges, in the manner of the Applicant's invention.

Therefore, the Applicant respectfully submits that *Robertson* and *Saiki*, taken separately or in combination, do not describe, teach, or otherwise anticipate the requirements of claims 3, 6, 12, and 15, each as amended herein, for the slotted members to each include a slotted portion having the grill attachment slots extending between flat sides from a narrow edge, a lower portion having a flat side attached to a crossbar, and a twisted portion extending between the slotted portion and a lower portion. For this reason, the Applicant respectfully submits that claims 3, 6, 12, and 16, as amended herein, are patentable under 35 USC §103(a) over *Robertson* in view of *Saiki*.

Additionally in this amendment, claims 7 and 9 are modified to depend upon claim 3 instead of upon the canceled claim 1. Since claims 7-9, as amended herein, merely add limitations to claim 3, the Applicant respectfully submits that these dependent claims are patentable under 35 USC §103(a) over *Robertson* in view of *Saiki* for reasons discussed above in reference to claim 3.

Claim 12 is modified to depend upon claim 12 instead of upon the canceled claim 10. Since this claim, as amended herein, merely adds limitations to claim 12, the Applicant respectfully submits that these dependent claims are patentable under 35 USC §103(a) over *Robertson* in view of *Saiki* for reasons discussed above in reference to claim 12.

In the above-mentioned Office Action, the Examiner also indicated that claims 8

and 17 were rejected under 35 USC §103(a) as being unpatentable over *Robertson* in view of *Saiki* and further in view of U.S. Pat. No. 3,359,887 to Cleveland, with *Cleveland* providing a description of a crossbar extending between the horizontally extending legs of the L-shaped brackets.

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The Applicant respectfully submits that *Cleveland* fails to correct the deficiency of *Robertson* and *Saiki* in teaching, describing, or otherwise anticipating the requirements of claims 6 and 15, as amended herein, for the slotted members to each include a slotted portion having the grill attachment slots extending between
10 flat sides from a narrow edge, a lower portion having a flat side attached to a crossbar, and a twisted portion extending between the slotted portion and a lower portion. Since claims 8 and 17 depend upon claims 5 and 15, the Applicant respectfully submits that claims 8 and 17 are patentable under 35 USC §103(a) over *Robertson* in view of *Saiki* and further in view of *Cleveland*.

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New claims

In this amendment, the specification is modified to include a description of the upper crossbar 54 as being attached to the upper legs of the stand brackets 56
20 to hold the grill attachment brackets 44 spaced apart from one another and from the upper legs of the stand brackets 54. A new claim 18 is added to add to claim 7, as amended herein, a requirement that the upper crossbar is attached to each of the vertically extending legs of the pair of L-shaped brackets to hold a plurality of the slotted members spaced apart from one another and from the vertically
25 extending legs. A new claim 19 is added to add this requirement to the requirements of claims 6 and 7 as originally filed. Support for this change to the specification and for this new requirement, as included within claims 18 and 19, is found in FIG. 2 as originally submitted, with the grill attachment brackets 44 being clearly shown as being attached to the upper crossbar 54 to extend in a
30 spaced apart relationship with one another and with the vertically extending legs

56. Regarding reliance upon the drawings as originally filed to provide support for changes to the specification and claims, the Applicant cites *In re Wolfensperger*, supra.

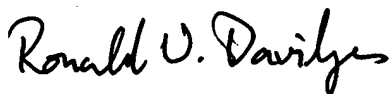
5 The Applicant respectfully submits that neither *Robertson*, *Saiki*, nor *Cleveland*, taken separately or in combination teach, disclose, or otherwise anticipate the requirement of the new claims 18 and 19 for the upper crossbar to be attached to each of the vertically extending legs of the pair of L-shaped brackets to hold a plurality of the slotted members spaced apart from one another and from the
10 vertically extending legs. *Robertson* describes a cooking stand that does not include slotted brackets fastened to a crossbar. Instead, slots are formed among a plurality of crossbars. In *Saiki* and in *Cleveland*, the slotted members are not attached to L-shaped brackets. Therefore, the Applicant respectfully submits that the new claims 18 and 19 are patentable under 35 USC §103(a) over *Robertson*
15 in view of *Saiki* and further in view of *Cleveland*.

Since claim 18 merely adds limitations to claim 7, claim 18 is additionally believed to be patentable for reasons described above in reference to claim 7.

20 **Conclusions**

For all the reasons discussed in detail above, the Applicant respectfully submits that the application, including claims 3, 6-9, 12, and 15-19, is now in condition for allowance, and that action is respectfully requested, along with reconsideration
25 and withdrawal of all reasons for rejection.

Respectfully submitted



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